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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,216	09/30/2003	Lori C. Kroll		2507

7590  
Mark W. Kroll  
801 Tonkawa Road  
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03/30/2006

EXAMINER

KATCHEVES, BASIL S

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 03/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/674,216

Applicant(s)

KROLL ET AL.

Examiner

Basil Katcheves

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10/12/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-43 is/are pending in the application.
- 4a) Of the above claim(s) 21-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 34-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

In response to the examiners non-final action of 2/25/05, the applicant entered the amendment of 5/17/05 which, in turn, was restricted by the examiner in the restriction dated 9/2/05. The applicant has elected, in the amendment entered 10/12/05, new claims 34-43. These new claims are examined below.

#### ***Claim Objections***

Claim 34 is objected as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 34 recites a net. However, claim 34 recites limitations regarding the net and dimensions of a stair system, which is not being claimed. Since the claim is drawn to a subcombination net, only the net is examined below.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 35-43 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 34 recites the limitation "the stair banister" in line 4. Claim 34 also recites the limitation "the short axis" in line 4. Claim 34 also recites the limitation "the stair

railing" in line 5. There is insufficient antecedent basis for these limitations in the claim.

Claims 35-43 are rejected for depending from 34.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 34-36 and 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,852,194 to Langan.

Regarding claim 34, Langan discloses a net (1) having a mesh of cord and temporary connectors (fig. 3: 7&19). However, Langan discloses the basic claim structure of the instant application but does not disclose specific mesh dimensions. Applicant fails to show criticality for specifically claimed mesh dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claims 35, 39 and 40, Langan discloses the basic claim structure of the instant application but does not disclose specific cord dimensions. Applicant fails to show criticality for specifically claimed cord dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claim 36 and 41-43, Langan discloses the basic claim structure of the instant application but does not disclose specific mesh dimensions. Applicant fails to show criticality for specifically claimed mesh dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claim 38, Langan discloses the use of cable ties (7).

Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,852,194 to Langan in view of U.S. Patent No. 5,460,409 to Conner.

Regarding claim 37, Langan discloses the basic claim structure of the instant application but does not disclose the use of hook and loop fasteners for securing the net. Conner discloses a mesh net having attached hook and loop fasteners (fig. 4: 38). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Langan by using hook and loop fasteners, as disclosed by Conner, in order to make fasten and remove the net quicker without the use of ties or hooks.

### ***Response to Arguments***

Applicant's arguments filed 10/12/05 have been fully considered but are moot under new grounds of rejections.

**Conclusion**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.

BK



3/27/06



N. Slack  
Primary